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SO FAR TWO WITNESSES

Slow Progress in Jones Murder Trial.

Strange Request Added to Acquittal of Gomez.

Foreclosure on Property at Waikiki—Davis Divorce Decree. Court Items.

The actual trial of Edward Mitchell Jones for murder in the first degree began at 10 o'clock yesterday morning before Judge Robinson with a succinct opening statement of the case by Deputy Attorney General E. C. Peters. He told of the beginning of conjugal infelicity between Jones and his wife. From bitter words it came to physical violence on the part of the husband, and Mrs. Jones warned him that if he assaulted her again she would seek a divorce. He did assault her again and shortly before the fatal Saturday night a divorce was obtained by the wife. Then, in the meantime, Mrs. Jones began keeping company with a motor-man, whom she intended to marry. Jones had threatened her that if she divorced him he would kill her and then himself.

On the evening of August 22, 1903, Jones saw Mrs. Jones riding on a car operated by her intended husband. He went and procured a revolver and armed with that weapon proceeded to the residence of Mrs. Parmenter, mother of Mrs. Jones, where, shortly after midnight, or early on August 23, he fired two shots at his wife, one of which took effect in the side of her head, causing her then and there to die. No reference was made by Mr. Peters to the killing of Mrs. Parmenter at the same time.

Having concluded his statement Mr. Peters produced a purported map of the Parmenter premises and asked if the defense would consent to its admission as evidence.

A. G. M. Robertson, after consulting with J. J. Dunne, associate counsel for Jones, replied:

"As this is a capital case, we do not consider it proper to admit anything." Mr. Peters thereupon called Albert Lucas, brother-in-law of the late Mrs. Jones, who testified to acquaintance with the Parmenter premises for several years prior to the tragedy, and to his having visited the premises yesterday morning and found them practically in the same condition as they were in August 23, 1903. The hibiscus hedge might, for lack of trimming, be a little higher. That was all.

Mr. Dunne interposed several objections to the evidence in quick succession, most of which were overruled with exceptions noted in every instance. S. M. Kanakani, first assistant of the Territorial Survey, was then called to prove the map, which was his handiwork. Witness had visited the premises that morning in company with Mr. Peters and Mr. Lucas. He was examined minutely, with scale in hand, upon dimensions, directions, construction, fences, gates, doors, windows, lanai, bearings to streets, etc. His examination in chief continued till well on in the afternoon session.

The cross examination was brief. At about 3:45 the trial was continued until 10 o'clock this morning.

There is but a small public attendance on the trial.

Jones in court looks healthy, but anxious and alert. Mr. Dunne occasionally consulted him while evidence was being given yesterday.

SIDE QUESTIONS.

Juror Medeiros, for himself and another, in the afternoon inquired as to whether the jury were to be taken to view the premises.

Judge Robinson, on consultation with counsel after the jury left the courtroom, ruled that a view of the premises would depend on further developments. If deemed necessary later it would be granted.

Mr. Peters then, on behalf of the bailiff, asked if that officer was to have discretion regarding visits of the jury in night recesses to places of amusement, such as theaters, prize fights, etc.

Mr. Robertson thought if the bailiff wanted any further instructions to what he had already received, he should go direct to His Honor therefor.

"I think so," Judge Robinson assented.

"It is immaterial to me, Your Honor." Mr. Peters said, and the incident was closed.

ALLEGED DYNAMITER ACQUITTED.

Lupini Gomez was found not guilty by the jury, before Judge De Bolt yesterday morning, of unlawfully exploding giant powder "to terrify and frighten one Halao." Among the instructions given for defendant by the court were the following:

"That as to the alleged statement of defendant, 'you have escaped but if I do it again you will all be killed,' I charge you that the same was allowed to be introduced for what it was worth, as an admission by defendant that

he had exploded giant powder at or near the house of Halao.

"I charge you that such admissions must be received with caution and subjected to careful scrutiny, as no class of evidence is more subject to error or abuse, and no class of testimony offers such temptation or opportunity for unscrupulous witnesses to torture the facts, or commit open perjury, and it is often impossible to contradict their testimony except by the defendant himself."

"If this alleged admission admits of two interpretations, one consistent with guilt and one consistent with innocence, you must accept the one consistent with innocence."

"I charge you that there is no direct proof that the defendant caused the alleged explosion, the evidence in the case being entirely circumstantial."

On presenting the verdict Mr. Rankin as foreman orally preferred a request of the jury that the court place the defendant under bonds to keep the peace toward Halao and family. Judge De Bolt denied the request as outside the competence of the court to grant.

FORECLOSURE DECREED.

Judge De Bolt granted a decree of foreclosure of mortgage in the suit of W. F. Allen, trustee, vs. George Haggart et al. P. D. Kellett Jr. was appointed commissioner of sale and the date of sale fixed as Saturday, Feb. 4. Holmes & Stanley appeared for plaintiff, whose deposition had been taken by George Lucas, under a motion granted by the court, on account of his feeble health. The property is situated at Waikiki and the mortgage debt is \$2500.

COURT ITEMS.

In the assumpsit suit of Rothchild and others against Leechu, the plaintiffs called upon the defendant to admit that they were partners under the firm name of Hoffman, Rothchild & Co., as alleged in their complaint. The defendant admits the fact on the same paper.

In the divorce suit of Cecilia L. Davis vs. Thomas Davis, Judge De Bolt orders that the libellee forthwith pay \$20 costs, \$25 attorney's fee and \$12 alimony.

Respondents in the foreclosure suit of William O. Smith, trustee, vs. J. H. Fisher et al. are given five days in which to plead.

COLBURN IS DENIED WRIT OF PROHIBITION

Per curiam the Supreme Court dismisses the petition of John F. Colburn for a writ of prohibition to the District Court of Honolulu to restrain it from further proceeding in the case of Irene B. Cornwell vs. John F. Colburn, a proceeding to obtain summary possession of land under the landlord and tenant act.

The writ of possession was placed in the hands of the High Sheriff shortly before noon on May 25, 1904, and he executed the writ and restored Irene B. Cornwell to the possession of the premises before 5 p. m. the same day. Colburn filed the petition for a writ of prohibition in the Supreme Court at 9:25 p. m. that evening. It is held that the writ of prohibition was then ineffectual, no act remaining to be done on the part of the District Court in respect to which the writ could operate.

"A writ of prohibition," the court says, "cannot be made to take the place of a writ of error."

Judgment was rendered in the District Court on September 4, 1903, in favor of Irene B. Cornwell against John F. Colburn for failure to pay rent of \$37.50 due March 7 previous and failure to pay taxes upon the leasehold. An appeal to the Supreme Court resulted in a decision on May 6, 1904, sustaining the judgment. On May 7, before a writ of possession had issued, Colburn filed a bond and on May 9 paid all costs in both courts, also the taxes, the same day tendering to the plaintiff's attorneys the rent at that date due. About May 18 the attorneys for plaintiff moved in the District Court for a writ of possession. Colburn appeared and opposed the motion, at the same time tendering \$116.98 for all rent then due and interest. On May 25 the District Court issued the writ of possession and the rest followed as already reported.

C. W. Ashford for petitioner; Robertson & Wilder for respondent.

ASSESSMENT OF WICHMAN CHANGED

H. F. Wichman & Co., Ltd., returned its property for taxation at \$82,552.22. The assessor assessed it at \$125,000, which a majority of the tax appeal court confirmed. A minority thought \$97,297.45 right. The Supreme Court, on the taxpayer's appeal, takes the inventoried value of \$104,539.10 to be an appropriate assessment and so orders.

It was in evidence that the capital stock of the company is \$125,000, and that its net profits in 1903 were \$22,762.37, a little over 18 per cent. The assets of the corporation were testified to be worth \$82,552.22. In arriving at its decision the court finds that the case is within the provisions of section 820, Civil Laws, since there are "several classes or kinds of personal property" which "are combined and made the basis of an enterprise for profit," requiring the property to "be assessed as a whole on its fair and reasonable aggregate value." The statute requires that "in estimating the aggregate value there shall be taken into consideration the net profits made by the same, also the gross receipts and actual running expenses."

Smith & Lewis for appellant; Robertson & Wilder for assessor.

WANTS PAY FOR WATER

Howland Makes Demand on Oahu Railway Company.

The Attorney General has given an opinion upon a case submitted to him to Superintendent of Water Works Howland, to the effect that the Oahu Railway & Land Co. is liable for water rates, the same as any other corporation or citizen. The matter will therefore go to the Supreme Court for decision upon an agreed statement of facts, the attorneys for the railroad company holding that it is not liable.

The claim of the railway people to exemption is based upon a law passed in 1878, and now known as Section 531 of the laws of 1897. Under the provisions of this act, the Minister of the Interior, with the consent of the President as the law was originally passed, had power to grant rights of way and land for stations to corporations organized to construct railway lines, and also the free use of water for the building of their roads.

When the Oahu Railway & Land Company was chartered, it claimed that it had added rights under this old law, and under section 531 proceeded to use water freely for the building of the road. Superintendent Howland discovered that the railway people had been using water ever since without paying for it, and made a demand for payment at the usual rate. The demand was refused, the attorneys for the railway company claiming exemption from payment under the law and under its charter. Howland then passed the matter up to the Attorney General for his opinion, which was adverse to the railway company.

It is upon this showing that the agreed statement of facts has been made out, and the case will be carried at once to the Supreme Court for decision. The case is regarded as very important by the government people, as the sum involved is considerable.

SAILOR GENEAU TO BE CHARGED WITH PERJURY

Upon evidence that was called to the attention of the Attorney General yesterday it is probable that Geneau, the sailor who almost got a vote of thanks for the shooting of the negro Ulysses Harris, will be arrested today on a charge of perjury.

It will be remembered that when Geneau was on the witness stand in his own behalf in the Circuit Court, he swore that he had no memory of the killing of Harris, having been under the influence of liquor at the time, and having moreover been dazed because the negro Kennard jumped upon his head while he was lying on the ground. It appears from a statement made by a Bulletin reporter that the reporter saw Geneau in jail immediately after the shooting of Harris and had an interview with the accused man, in the course of which, according to the account printed in the Bulletin of July 1st last, Geneau told the story of the shooting and told it in a remarkably clear and connected way for a man who was in a mental haze at the time.

It is said that the matter was called to the attention of the Territorial Grand Jury, which was in session for a short time yesterday; but however that may have been the naval authorities will be notified of the new development today and Geneau will in all probability be taken into custody again.

JUDGE LITTLE'S LAW VOIDS A CONVICTION

While Judge Little is exploiting the only genuine article of American patriotism at Panama, the odor of his judicial career at Hilo still abides in the Territory of Hawaii—indeed is perpetuated for all time in the declared law of this country.

The Supreme Court has just granted a new trial to Wong Tim, on his appeal from conviction for gross chance, because Judge Little, in charging the jury, made a remark that was inapplicable to the case, improper, ungracious and liable to mislead the jury. He said he would give a particular instruction asked for by the defendant, "but not as the law of this country."

As the Supreme Court holds, in an opinion written by Justice Hartwell, it might have been inferred by the jury from the "ungracious" remark, that the instruction in question was contrary to the law, therefore that a verdict of guilty would be the right one to render.

W. S. Fleming appeared for the Territory, and Thayer & Hemenway for the defendant.

"De man dat reserves mos' of his piety foh Sunday," said Uncle Eben, "can't blame de small boy for showin' off mos' of his goodness de week befo' Christmas."—Washington Star.



Announcement of Auctions

Auction Sale
WEDNESDAY, FEB. 1, 1905
10 O'CLOCK A. M.

Very Elegant Furniture
FROM
"The Clifton"

I will sell at my salesroom, 847 Kaahumanu street, very choice furniture, etc., from "The Clifton," consisting of Wardrobes in Mahogany and oak. Bureaus in Curly Birch and Mahogany. Dressers in Curly Birch and Mahogany. Pedestal Hat Racks in Mahogany. 1 Drop Cabinet. Howe Sewing Machine. 1 Combination Bed-Wardrobe-Writing-Desk, Etc., in Quartered Oak. 1 Brass Bedstead. 2 New Ostermoor Mattresses.

This furniture is nearly new and up to date in style and finish, in fact, there is none other of its kind.

—ALSO—

Kitchen Furniture.

1 Monarch Oil Stove (nearly new), with Oven, Etc.

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Auction Sale —OF—

Delinquent Stock

Inter-Island Telegraph Co., Ltd.

WEDNESDAY, FEB. 15, 1905.

AT 12 O'CLOCK NOON.

At my salesrooms, 845 Kaahumanu street, Honolulu, I will sell at public auction, by order of the treasurer, Mr. J. M. Riggs, the following certificates of stock in the Inter-Island Telegraph Co., Ltd., unless the delinquent assessments, with interest thereon and advertising expenses, are paid on or before the day and hour of the sale at the office of the Inter-Island Telegraph Co., Ltd., Honolulu:

Certificate.	Shares.
4.....	10
8.....	10
18.....	10
23.....	20
23.....	40
23.....	5
23.....	2
32.....	10
33.....	10
33.....	30
35.....	5
57.....	5
62.....	10
65.....	5
119.....	10
43.....	5

JAS. F. MORGAN, AUCTIONEER.

COMMISSIONER'S SALES.

AT MY SALESROOM, 857 Kaahumanu street,
SATURDAY, February 4, 1905,
12 O'clock Noon.

Property known as the PROGRESS BLOCK, Fort Street, Honolulu.

AT JUDICIARY BUILDING,
SATURDAY, February 4, 1905,
12 O'clock Noon.

All and Singular THE PACIFIC HEIGHTS ELECTRIC RAILWAY.

RECEIVER'S SALES

AT JUDICIARY BUILDING,
SATURDAY, February 25, 1905,
12 O'clock Noon.

(Date of sale subject to change.)
All and Singular the Property, Rights and Franchise of the

PUNA SUGAR COMPANY, LTD.



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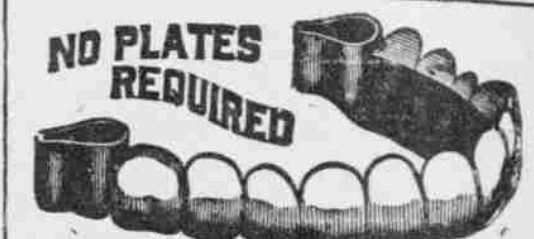
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